

In re Patent Application of:

KHADAVI

Serial No. **09/684,536**

Filing Date: **10/06/2000**

REMARKS

Claims 1-3, 5-24, 26-35, and 37-43 remain in this application. Claims 4, 25 and 36 have been cancelled. Claims 1, 5, 12, 22, 26, 33 and 37 have been amended. New Claims 44-47 have been added.

Applicant thanks the Examiner for the detailed study of the application and prior art. Applicant submits formal drawings as a separate attachment in a Transmittal of Formal Drawings that is submitted with this Amendment.

Applicant notes the rejection of claims 1, 2, 3, 12, 13 and 33 as anticipated by U.S. Patent No. 6,192,109 to Amrany et al. (hereinafter "Amrany"), and claims 4-6, 11, 14-16, 21, 25-27, 32, 36-38 and 43 as unpatentable over Amrany in view of U.S. Patent No. 6,266,395 to Liu et al. (hereinafter "Liu").

Applicant also acknowledges the allowable subject matter of claims 7-10, 17-20, 28-31, 34-35 and 39-42.

At the outset, claims 44, 45, and 46 are new claims that recite the allowable subject matter of claims 7-9. Claim 44 corresponds to the allowable subject matter of claim 7, claim 45 corresponds to the allowable subject matter of claim 8, and claim 46 corresponds to the allowable subject matter of claim 9. New claim 47 recites the subject matter of claim 11.

Applicant also submits a Declaration Under 37 CFR §1.131 by the inventor, Kamran R. Khadavi, that sets forth that prior to September 3, 1999, the effective date of U.S. Patent No. 6,266,395 to Liu, while employed at Harris Corporation, Camarillo, California, the inventor conceived the invention of a bandwidth analysis tool that is operative as a system and method for broadband analysis of a telephone local loop. He worked diligently from conception in developing the software and hardware on which it is to be run, including

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pseudo-code, up to the time of filing the instant patent application.

As noted in the 131 Declaration, his conception is reflected in Exhibit 1, which is taken from his laboratory notebook. These entries indicate that the inventor had defined basic measurements of the bandwidth analysis tool of the present invention and provided a list of measurements that may be obtained with the present invention. Different requirements were set forth and the details regarding what can be used to analyze a line for DSL capability and a failure threshold with individual paths/margins/fail indications. Exhibit 2 is a brief memorandum detailing the intended physical platform and the types of product output, measurement input, and requirements of a cable fill tolerance prediction tool. These two Exhibits 1 and 2 are dated before September 3, 1999 and show not only the conception of the system and method of the present invention, but the qualifying and quantifying of the local loop, the calculation of data rates and the modeling of the local loop.

After September 3, 1999, as indicated in the 131 Declaration, the inventor worked diligently with line modeling as shown in Exhibit 3. He prepared preliminary pseudo-code as reflected in Exhibit 4 and later drafted an invention disclosure. He worked diligently to draft and complete a patent application covering the invention, which was filed on October 6, 2000. The dates are deleted on the sheets for Exhibits 1-5.

Applicant contends that this Declaration effectively remotes Liu as a reference.

Independent claims have now been amended to recite that the local loop can be quantified by modeling the local loop. Nowhere does Amrany disclose such a feature and therefore independent claims are now patentable over Amrany with Liu effectively removed.

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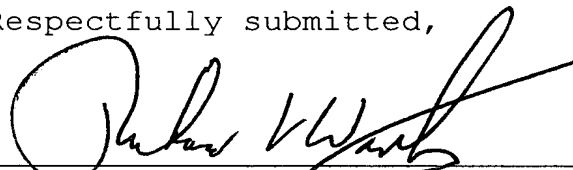
New claim 47 is directed to selecting a particular DSL technology from a configurable list of DSL technologies and analyzing each technology within the list that the local loop qualifies. This is not suggested by Amrany.

Also, Applicant notes that the Information Disclosure Statement and PTO-1449 form was filed with this patent application on October 6, 2000. The Office Action did not include the initialed copy of the PTO-1449 form indicating that the Examiner had considered the Information Disclosure Statement. Applicant submits with this Amendment a copy of the PTO-1449 form, the Information Disclosure Statement document, and a copy of the return postcard indicating that the Patent Office had received the IDS. Applicant requests an initialed copy for their records to complete the file.

Applicant contends that the present case is in condition for allowance and respectfully requests that the Examiner issue a Notice of Allowance and Issue Fee Due.

If the Examiner has any questions or suggestions for placing this case in condition for allowance, the undersigned attorney would appreciate a telephone call.

Respectfully submitted,



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